

Article - Criminal Law

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§3–809.

(a) (1) In this section the following words have the meanings indicated.

(2) “Distribute” means to give, sell, transfer, disseminate, publish, upload, circulate, broadcast, make available, allow access to, or engage in any other form of transmission, electronic or otherwise.

(3) “Harm” means:

- (i) physical injury;
- (ii) serious emotional distress; or
- (iii) economic damages.

(4) “Intimate parts” means the naked genitals, pubic area, buttocks, or female nipple.

(5) “Sexual activity” means:

- (i) sexual intercourse, including genital–genital, oral–genital, anal–genital, or oral–anal, whether between persons of the same or opposite sex;
- (ii) sodomy under § 3–321 of this title or an unnatural or perverted sexual practice under § 3–322 of this title;
- (iii) masturbation; or
- (iv) sadomasochistic abuse.

(b) (1) This section does not apply to:

- (i) lawful and common practices of law enforcement, the reporting of unlawful conduct, or legal proceedings; or
- (ii) situations involving voluntary exposure in public or commercial settings.

(2) An interactive computer service, as defined in 47 U.S.C. § 230(f)(2), is not liable under this section for content provided by another person.

(c) A person may not knowingly distribute a visual representation of another identifiable person that displays the other person with his or her intimate parts exposed or while engaged in an act of sexual activity:

(1) with the intent to harm, harass, intimidate, threaten, or coerce the other person;

(2) (i) under circumstances in which the person knew that the other person did not consent to the distribution; or

(ii) with reckless disregard as to whether the person consented to the distribution; and

(3) under circumstances in which the other person had a reasonable expectation that the image would remain private.

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

(e) A visual representation of a victim that is part of a court record for a case arising from a prosecution under this section:

(1) subject to item (2) of this subsection, may not be made available for public inspection; and

(2) except as otherwise ordered by the court, may only be made available for inspection in relation to a criminal charge under this section to:

(i) court personnel;

(ii) a jury in a criminal case brought under this section;

(iii) the State's Attorney or the State's Attorney's designee;

(iv) the Attorney General or the Attorney General's designee;

(v) a law enforcement officer;

(vi) the defendant or the defendant's attorney; or

(vii) the victim or the victim's attorney.

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